

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 637 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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HARBANSINGH CHETANSINGH KERON

Versus

STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI for Petitioner

MR SP DAVE, APP.,for Respondent No. 1

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/07/1999

ORAL JUDGEMENT

1. The petitioner is the power of attorney holder of the owner of vehicle No.GQB 6018, which was involved in an offence registered before the Ichhapur Police Station, vide C.R-I No.12/99 for offences under Sections 420 and 114 of the Indian Penal Code. The vehicle came to be seized by police and the petitioner, therefore, applied to 5th Joint Civil Judge (J.D.) and Judicial Magistrate,

First Class, at Surat for interim custody of the vehicle, pending the trial. The learned Magistrate, rejected that application. The petitioner, therefore, preferred Revision Application No.67 of 1999 in the Sessions Court at Surat. The learned Additional Sessions Judge, while deciding Revision Application No.67 of 1999 on 23rd June, 1999, allowed the revision application, reversing the order of the learned Magistrate and directed that the vehicle in question be handed over to the petitioner on certain conditions. One of the conditions being that the petitioner shall furnish a bank guarantee in favour of P.I. of Ichhapur Police Station for Rs.1 lakh. It is this part of the order with which the present petitioner is aggrieved.

2. Heard Mr. Dagli, learned advocate for the petitioner and Mr. Dave, learned Additional Public Prosecutor for the State. Considering the merits, the vehicle is handed over to the petitioner only on interim basis, pending the trial. The Trial, in all probability, will take time. The petitioner will have to go on incurring expenditure for renewal of the bank guarantee from time to time and, therefore, the purpose would be frustrated. Keeping this aspect in mind, if the petitioner is directed to furnish a solvent surety to the tune of Rs.1 lakh instead of bank guarantee, the ends of justice would be met. There appears to be no need for any modification of any of the other conditions and rightly not prayed for by the petitioner. Hence, the following order :-

The petition is allowed. The condition imposed by the learned Additional Sessions Judge while disposing of Criminal Revision Application No.67 of 1999 of furnishing bank guarantee of Rs.1 lakh for handing over muddamal truck No.GBQ 6018 is hereby quashed. It is directed further that the petitioner shall furnish a surety to the tune of Rs.1 lakh and execute the bond for identical amount whereupon he shall be handed over the custody of the vehicle in question. The other conditions imposed by the learned Additional Sessions Judge remain intact. Rule is made absolute accordingly. Direct service to respondent No.2 permitted.

[ A.L. DAVE, J. ]

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